

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRBa1863/P1dn
MES:cjs:jf

March 18, 2010

Representative Seidel:

This version of the amendment is based on your written instructions, which referred to DOA's marked up copy of SB 399, as affected by WHEDA's changes to the tax items. Carrie Templeton of the Governor's office authorized the use of these documents.

I did not include a statement of policy, which was based on similar statement of policy in s. 66.1101 of the statutes. That statement of policy was drafted in the 1970s and does not reflect current LRB policy on the inclusion of statements of legislative intent.

Our current drafting policy, as I discussed with Chris McKinny of your staff, is to not include a statement of legislative intent or findings unless the findings or intent statement could help sustain a provision for which there is a reasonable probability of a constitutional challenge, or if the bill is intended to be a recodification bill that makes no substantive changes. Neither exception applies in this amendment. A statement of legislative intent or findings is disfavored for a number of reasons, including redundancy, unforeseen effects, inconsistent use of standards for statutory interpretation, and conflicts with the substance of the statutory language. The substantive statutory provisions of a bill or amendment should contain every aspect of the requester's intent, thus obviating the need for an extra statement explaining what the bill or amendment is supposed to do. Please contact me if you'd like to discuss this matter further.

I did not include any of the provisions for possible inclusion in the amendment, described items 2, 6, and 7 of your drafting instructions, because I agree with your view that these items are not necessary.

Please let me know if you'd like any changes made to the amendment, especially the item which includes a ****NOTE, and I'll convert the amendment into an introducible form.

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